



CMIPS II
REQUEST FOR PROPOSAL
HHSDC 4130-141A
Addendum ~~12~~14

Section 2
RULES GOVERNING COMPETITION

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1 IDENTIFICATION AND CLASSIFICATION OF RFP REQUIREMENTS

1.1 Requirements

The State has established certain technical and administrative requirements with respect to Proposals to be submitted by Bidders. The use of "shall," "must," or "will" (except to indicate simple futurity) in the Request for Proposal (RFP) indicates a requirement or condition from which a deviation, if not material, may be waived by the State. A deviation from a requirement is material if the deficient response is not in substantial accord with the RFP requirements, provides an advantage to one Bidder over other Bidders, or has a potentially significant effect on the delivery, quantity, or quality of items proposed, the amount paid to the Bidder, or the cost to the State. Material deviations cannot be waived.

The word "bid" as used throughout is intended to mean "proposed," "propose," or "Proposal" as appropriate.

1.2 Desirable Items

The words "should" or "may" in the RFP indicate desirable attributes or conditions that are non-mandatory in nature. Deviation from, or omission of, such a desirable feature, even if material, will not in itself cause rejection of the bid.

1.3 Preferences

There are some Administrative Requirements that give legally mandated preferences to Bidders meeting certain statutory requirements (noted as "[**Preference**]") in Section 5, ADMINISTRATIVE REQUIREMENTS. These are requirements that, if met by a Bidder, provide that Bidder with certain preferences as set forth in applicable State law. These are not mandatory requirements under the RFP, but if a Bidder meets any of the preference requirements set forth in Section 5, the State advises and encourages the Bidder to take advantage of its preferential status. The nature of how a preference will be applied to a qualifying Bidder will be addressed within each applicable administrative requirement.

2 BIDDING REQUIREMENTS AND CONDITIONS

2.1 General

This RFP, the evaluation of responses, and the award of the resultant Contracts shall be made in conformance with current competitive bidding procedures as they relate to the procurement of goods and services by public bodies in the State of California. A Bidder's Final Proposal is an irrevocable offer for two hundred forty (240) days following the scheduled date for submission of final proposals specified in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates. A Bidder may extend the offer in the event of a delay of Contracts Award.

2.2 Alternative Procurement Process

In its procurement of the new Case Management, Information and Payrolling System (CMIPS II), the State is using the Alternative Procurement Process. The Alternative Procurement Process is a flexible process that was designed to provide the "best value" solution to the State and to allow a higher level of Bidder input during the procurement process. The State may respond to

information that becomes available during the procurement process by making modifications to the requirements, evaluation, or alternative process. Because of this, Bidders are reminded that the State may require additional information from Bidders in the future that is not identified in this RFP at the present time. Any additional information will be requested through the Addendum process, in Paragraph 2.6, Addenda.

2.3 RFP Documents

This RFP includes, in addition to an explanation of the State's needs which must be met, instructions which prescribe the format and content of proposals to be submitted and the Contracts to be executed between the State and the successful Bidder.

All Bidders are advised to:

- **CAREFULLY REVIEW THE CONTENTS OF THIS RFP**
- **IF CLARIFICATION IS REQUIRED, ASK IN A TIMELY MANNER; AND**
- **MAKE SURE THAT ALL PROCEDURES AND REQUIREMENTS OF THE RFP ARE ACCURATELY FOLLOWED AND APPROPRIATELY ADDRESSED.**

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Bidder shall immediately notify the State of such error in writing and request clarification or modification of the document.

Modifications will be made by addenda issued pursuant to Paragraph 2.6, Addenda. Such clarifications shall be given by written notice to all parties who have submitted a Letter of Intent to Bid, without divulging the source of the request for the clarification.

If the RFP contains an error known to the Bidder, or an error that reasonably should have been known, the Bidder shall propose at its own risk. If the Bidder fails to notify the State of the error prior to the date fixed for submission of Final Proposals, and is awarded the Contracts, the Bidder shall not be entitled to additional compensation or time by reason of the error or its later correction.

2.4 Electronic Copy of RFP Available

An electronic copy of the RFP is available to all Bidders to assist with their preparation of the proposal and is available at the Office of Systems Integration (OSI) CMIPS Project website, <http://www.cmipsproject.ca.gov/> in both Microsoft Word 2000 and Portable Document Format (PDF) formats. The spreadsheets are in Microsoft Excel 2000.

While this RFP is available electronically in MS Word and Excel 2000, the PDF version of the RFP is the official version and will be used to resolve any and all discrepancies between RFP documents.

2.5 Questions Regarding the RFP

Bidders requiring clarification of the intent or content of this RFP or on procedural matters regarding the competitive procurement process may request clarification by submitting questions to the Procurement Official listed in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 3, Procurement Official. To ensure a response, questions must be received in writing by the date(s) given in Section 1, Paragraph 5, Key Action Dates. The State will accept and attempt to answer questions received after the date(s) specified in Section 1,

Paragraph 5, Key Action Dates but does not guarantee that an answer will be provided. Questions received from Bidders and the State's responses will be posted on the OSI CMIPS Project website, <http://www.cmipsproject.ca.gov/>. Question and answer sets will be continuously updated as new questions are received and answers provided. The question and answer sets will be provided without identifying the source of the questions.

A Bidder who desires clarification or further information on the content of the RFP, but whose questions relate to the proprietary aspect of that Bidder's proposal and which, if disclosed to other Bidders, would expose that Bidder's proposal, may submit such questions in the same manner as above, but also marked "CONFIDENTIAL," and not later than the scheduled date specified in Section 1, Paragraph 5, Key Action Dates to ensure a response. The Bidder must explain why any questions are sensitive in nature. If the State concurs that the disclosure of the question or answer would expose the proprietary nature of the proposal, the question will be answered and both the question and answer will be kept in confidence. If the State does not concur with the proprietary aspect of the question, the question will not be answered in this manner and the Bidder will be so notified.

If the Bidder believes that one or more of the RFP requirements is onerous, unfair, or imposes unnecessary constraints to the Bidder in proposing less costly or alternate solutions, the Bidder may request a change to the RFP by submitting, in writing, the recommended change(s) and the facts substantiating this belief and reasons for making the recommended change. Such request must be submitted to the Procurement Official by the date specified in Section 1, Paragraph 5, Key Action Dates for submitting a request for requirements change. **The State shall not be bound by any answer or statement unless the answer or statement is in writing.**

2.6 Addenda

The State may modify the RFP, including the Bidders Library, by issuance of an addendum. All parties who are participating in the bidding process at the time the addendum is issued will receive notification of the addendum, unless the amendments are such as to offer the opportunity for nonparticipating contractors to become participating, in which case other potential Bidders will be notified of the requirements change. Addenda will be numbered consecutively. The State will post Addenda on the project website, www.cmipsproject.ca.gov. If any contractor determines that an addendum unnecessarily restricts its ability to propose, the contractor is allowed five (5) business days to submit a protest to the addendum according to the instructions contained in Paragraph 5.1, Protests.

2.7 Bonds

The State requires a performance bond from the Contractor for the Contract awarded for the Design, Development, and Implementation (DDI) of CMIPS II as specified in Section 5, ADMINISTRATIVE REQUIREMENTS of the RFP. In the event a surety bond is required by the State, which has not been expressly required by the specification, the State will reimburse the Contractor, in an amount not exceeding the cost to the Contractor or the standard premium on such bond whichever is lower.

2.8 Discounts

The State requires that any discounts offered be reflected in the rates.

2.9 Joint Proposals

A joint proposal (two or more Bidders quoting jointly on one proposal) may not be submitted for this procurement. This does not preclude submission of a proposal by a Prime Contractor who is responsible for the overall project, which uses subcontractors for portions of the work.

2.10 Air or Water Pollution Violations

Government Code Section 4477 prohibits the State from contracting with a person, including a corporation or other business association, who has been determined to be in violation of any State or Federal air or water pollution control law. Government Code Section 4481 requires the State Water Resources Control Board and the Air Resources Board to notify State agencies of such persons.

Prior to an award, the State shall ascertain if the intended awardee is included in notices from the Boards. In the event of any doubt of the intended awardee's identity or status of who is in violation of any State or Federal air or water pollution law, the State will notify the appropriate Board of the proposed award and afford the Board the opportunity to advise the State that the intended awardee is such an entity.

No award will be made to a Bidder who is identified either by the published notices or by advice, as an entity in violation of State or Federal air or water pollution control laws.

2.11 Fair Employment and Housing Commission Regulations

The California Government Code Section 12990 requires all State contractors to have implemented a Nondiscrimination Program before entering into any contract with the State. The Department of Fair Employment and Housing (DFEH) randomly selects and reviews State contractors to ensure their compliance with the law. DFEH periodically disseminates a list of contractors who have not complied. Any contractor so identified is ineligible to enter into any State contract.

2.12 Exclusion for Conflict of Interest

No contractor shall be paid out of State funds for developing recommendations on the acquisition of Information Technology (IT) products or services or assisting in the preparation of a feasibility study if that contractor is to be a source of such acquisition or could otherwise directly and/or materially benefit from State adoption of such recommendations or the course of action recommended in the feasibility study. For the purposes of these Contracts, precluded companies include The Aeon Group, Dimension 5, Eclipse Solutions, Ingenious Information Technology, Inc., IntegraTech, Inc., Princeton Solutions, and Spherion.

2.13 Follow-on Contracts

No person, firm, or subsidiary thereof who has been awarded a consulting services contract, or a contract which includes a consulting component, may be awarded a contract for the provision of services, delivery of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services contract. Therefore, any consultant who contracts with a State agency to develop formal recommendations for the acquisition of IT products or services is precluded from contracting for any work recommended in the formal recommendations. (Formal recommendations include, among other things, feasibility studies.)

2.14 Disclosure of Financial Interests

Proposals in response to State procurements for assistance in preparation of feasibility studies or the development of recommendations for the acquisition of IT products and services must disclose any financial interests (i.e., service contract, original equipment manufacturer agreements, remarketing agreements, etc.) that may foreseeably allow the individual or organization submitting the proposal to materially benefit from the State's adoption of a course of action recommended in the feasibility study or the acquisition recommendations. If, in the State's judgment, the financial interest will jeopardize the objectivity of the recommendations, the State may reject the proposal.

3 BIDDING STEPS

3.1 General

The procurement process for this acquisition, RFP HHSDC 4130-141A, is composed of the following steps:

- Bidders' Conference
- Letter of Intent to Bid
- State Data Center Services Discussions
- Draft Proposal Submission
- Draft Proposal Evaluation
- Confidential Discussions
- Final Proposal, including Cost Proposal, Submission
- Final Proposal Evaluation
- Proposed Key Staff Interviews
- Cost Proposal Opening
- Cost Proposal Evaluation
- Notice of Intent to Award
- Contracts Award

The Bidder should carefully proof the Draft Proposal and Final Proposal for errors and adherence to the RFP requirements before they are submitted.

The Final Proposal is a mandatory step for all Bidders. Bidders are strongly encouraged to follow all the scheduled steps of this procurement, as identified in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates, to increase the chance of submitting a compliant Final Proposal. **Cost information submitted in any submission other than the Final Cost Proposal, may preclude the Bidder from continuing in the process.**

3.2 Bidders' Conference

A Bidders' Conference will be held during which Bidders will be afforded the opportunity to meet with State personnel and discuss the content of the RFP and the procurement process. The time and place of such conference is in Section 1, Paragraph 5, Key Action Dates. Written

questions received prior to the cutoff date for submission of such questions, as noted in Section 1, Paragraph 5, Key Action Dates, will be answered at the conference without divulging the source of the query.

The State may also accept oral questions during the conference and will make a reasonable attempt to provide answers prior to the conclusion of the conference. A summary of questions and appropriate answers will normally be posted on the OSI CMIPS Project website, <http://www.cmipsproject.ca.gov/>, within approximately ten (10) working days. If questions asked at the conference cannot be adequately answered during the discussion, written answers will be provided. **Oral answers shall not be binding on the State.**

3.3 Letter of Intent to Bid

Bidders who choose to participate in this RFP are requested to submit a Letter of Intent to Bid to the Procurement Official by the date specified in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates. Only those Bidders acknowledging interest in this RFP will receive additional correspondence regarding this procurement.

If a Contractor is submitting a proposal, the State requests the Bidder include in the Letter of Intent to Bid if the Bidder has problems with one or more of the requirements. The State is also interested in a Contractor's reasons for not submitting a proposal. If a Bidder has indicated a significant problem with an RFP requirement, the State will examine the stated reasons for the problem, will attempt to resolve any issues in contention, and if not contrary to the State's interest, will amend the RFP if appropriate.

The Letter of Intent to Bid should identify the contact person for the solicitation process, plus include an address, phone number, fax number and Email address. Information related to a Bidder will only be given to the designated contact person. It shall be the Bidder's responsibility to immediately notify the State Procurement Official, in writing, regarding any revision to the information pertaining to the designated contact person. The State shall not be responsible for proposal correspondence not received by the Bidder if the Bidder fails to notify the State, in writing, about any change pertaining to the designated contact person.

Hereafter, for the purposes of the instructions of this RFP, all Bidders who have indicated their intent to submit a Final Proposal are called Bidders until such time that the Bidder withdraws or other facts indicate that the Bidder has become nonparticipating.

3.4 State Data Center Services Discussions

The State Data Center Services Discussions provide a forum for the State Data Center and the Bidder to have confidential discussions regarding the Bidder's approach to the requirements defined in the RFP and services to be provided by the State Data Center.

In general, the Bidder is responsible for scheduling the State Data Center Discussions through the Procurement Official defined in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS. The State Data may also initiate State Data Center Discussions with Bidders. In either case, the State will confirm each appointment within 5 days of the request. Depending on the availability of the State Data Center staff, the actual appointment date may be up to 15 State working days after the date of the request. The last day to have discussions with the State

Data Center prior to the submittal of Final Proposals is defined in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates.

Throughout the State Data Center Services Discussions, written notes may be made by both the State and the Bidder. There will not be an official transcript of the proceedings. If a Bidder has any outstanding issues or needs for clarification after the State Data Center Services Discussions, the Bidder is advised to contact the State Procurement Official in writing for resolution and/or clarification prior to the submission of the Final Proposals as required by Paragraph 2.5, Questions Regarding the RFP. **Verbal statements made by either party shall not obligate either party.**

3.5 Draft Proposal

The purpose of the Draft Proposal is to provide the State with an "almost final" proposal in order to identify any faulty administrative or technical aspect of the proposal, which, if not corrected, could cause the Final Proposal to be rejected.

The Draft Proposal is to be complete in every respect as required by Section 9, PROPOSAL FORMAT, except for the inclusion of actual dollar cost information. The inclusion of cost information in the Draft Proposal may be a basis for rejecting the proposal and notifying the Bidder that further participation in the procurement is prohibited.

REVIEW OF THE DRAFT PROPOSAL BY THE STATE WILL INCLUDE CONFIDENTIAL DISCUSSIONS WITH INDIVIDUAL BIDDERS AND WILL PROVIDE FEEDBACK TO THE BIDDER PRIOR TO SUBMITTAL OF THE FINAL PROPOSAL. The State will notify the Bidder of any defects it has detected in the Draft Proposal, or of the fact that it did not detect any such defects. Such notification is intended to minimize the risk that the Final Proposal will be deemed defective; however, **THE STATE WILL NOT PROVIDE ANY WARRANTY THAT ALL DEFECTS HAVE BEEN DETECTED AND THAT SUCH NOTIFICATION WILL NOT PRECLUDE REJECTION OF THE FINAL PROPOSAL IF SUCH DEFECTS ARE LATER FOUND.**

The Evaluation Team will review each Draft Proposal received in accordance with the evaluation methodology outlined in Section 10, EVALUATION OF PROPOSALS. The purpose is for identifying areas in which the Bidder's proposal is nonresponsive to a requirement, is otherwise defective, or in which additional clarification is required in order that the State may fully understand the ramifications of an action proposed by the Bidder. As a result of this evaluation, the Evaluation Team will prepare an agenda of items to be discussed with the Bidder, and will normally transmit the agenda to the Bidder at least two (2) business days before subsequent scheduled confidential discussions. The Bidder may request that additional specific items be included in the agenda.

3.6 Confidential Discussion with Each Bidder

In accordance with the discussion agenda, the Evaluation Team will meet with each Bidder for the purpose of discussing the Draft Proposal in detail. The State may also include subject matter experts (SME) for discussion of specific issues. In order to achieve maximum benefit from these discussions, the Bidder must bring to the discussion persons who can answer questions, provide clarification, and address reservations the State may have. The participants will discuss each of the agenda items. To the maximum extent practical, the Bidder will address the major concerns of the Evaluation Team, as expressed in the Discussion Agenda, and should be prepared to

answer any questions that may arise as a result of the discussion. The participants will then proceed to discuss each of the agenda items.

The State will not make counter proposals to a Bidder's proposed solution to the RFP requirements. The State will only identify its concerns, ask for clarification, and express its reservations if a particular requirement of the RFP is not, in the opinion of the State, appropriately satisfied. The primary purpose of this discussion is to ensure that the Bidder's Final Proposal will be responsive.

Throughout the Confidential Discussion written notes may be made by both the State and the Bidder to document the issues discussed. There will not be an official transcript of the proceedings. If a Bidder has any outstanding issues or needs for clarification after the Confidential Discussion, the Bidder is advised to contact the State Procurement Official in writing for resolution and/or clarification prior to the submission of the Final Proposals. **Verbal statements made by either party shall not obligate either party.**

3.7 Final Proposal

The Final Proposal must be complete, including all cost information and required signatures. As required in Section 9, PROPOSAL FORMAT, cost data must only be submitted under separate, sealed cover in the Cost Proposal. **CHANGES THAT APPEAR IN THE FINAL PROPOSAL, OTHER THAN CORRECTION OF DEFECTS, INCREASE THE RISK THAT THE FINAL PROPOSAL MAY BE FOUND DEFECTIVE.**

3.7.1 Flawed Final Proposals

The State may declare the Final Proposal to be an additional Draft Proposal in the event that the Evaluation Team determines that Final Proposals from all Bidders contained material deviations and that it is in the best interest of the State to continue the procurement process. If this occurs the State will issue an addendum to the RFP and a Confidential Discussion will be held with each Bidder who submitted a Final Proposal and any other Bidder who requests a Confidential Discussion. Each Bidder will be notified of the due date for the submission of a new completed Final Proposal to the State. This submission must conform to all of the requirements of the RFP as amended by any subsequent addenda. During the evaluation of the new Final Proposal the Evaluation Team may request the Bidder to clarify any area of the Proposal that the Evaluation Team feels is unclear.

3.8 Confidentiality

Final proposals are public upon opening; however, the contents of all proposals, draft proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a Bidder's proposal shall be held in the strictest confidence until notice of intent to award. **Bidders should be aware that marking a document "confidential" or "proprietary" in a Final Proposal will not keep that document from being released after notice of intent to award as part of the public record, unless a court has ordered the State not to release the document.** The content of all working papers and discussions relating to the Bidder's proposal shall be held confidential indefinitely unless the public interest is best served by an item's disclosure because of its direct pertinence to a decision, agreement, or the evaluation of the proposal.

Any disclosure of confidential State information by the Bidder is a basis for rejecting the Bidder's proposal and ruling the Bidder ineligible to further participate. Any disclosure of confidential information by a State employee is a basis for disciplinary action, including dismissal from State employment, as provided by Government Code Section 19570 et seq. Any disclosure of confidential information by a representative of the State is a basis for disciplinary action including dismissal and civil action.

3.9 Submission of Proposals – (Also See Section 9, PROPOSAL FORMAT)

The instructions contained herein apply to the Final Proposal. They also apply to the Letter of Intent to Bid and Draft Proposal, except as noted.

3.9.1 Preparation

Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc., are not necessary or desired. EMPHASIS SHOULD BE CONCENTRATED ON CONFORMANCE TO THE RFP INSTRUCTIONS, RESPONSIVENESS TO THE RFP REQUIREMENTS, AND ON COMPLETENESS AND CLARITY OF CONTENT.

The State's evaluation of the Draft Proposals is cursory. Therefore, Bidders cannot and shall not rely on the State, during these evaluations and reviews, to discover and report to the Bidders all defects and errors in the submitted documents. Before submitting each document, the Bidder is solely responsible for carefully proofing its Proposals for errors and adherence to the RFP requirements.

3.9.2 Bidder's Cost

Costs for developing proposals are the sole responsibility of the Bidder and shall not be chargeable to the State.

3.9.3 Completion of Proposals

Proposals must be complete in all respects as required by Section 9, PROPOSAL FORMAT. A Final Proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. A Final Proposal must be rejected if any such defect or irregularity constitutes a material deviation from the RFP requirements. The Final Proposal must contain all costs required by Section 8, COST INSTRUCTIONS and Section 9, PROPOSAL FORMAT, setting forth a unit price and total price for each unit price item, and a total price for each lump sum price item in the schedule, all in clearly legible figures. **As required in RFP Section 9, PROPOSAL FORMAT, cost data (as identified in the above referenced sections) must be submitted under separate, sealed cover. Draft Proposals must contain all information required in the Final Proposal except cost.** Exhibit 2-1 COMPETITIVE BIDDING AND PROPOSAL RESPONSIVENESS provides information on the requirements of competitive bidding and contains examples of common causes for rejection of proposals. Bidders are encouraged to review this exhibit.

3.9.4 False or Misleading Statements

Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Bidder, may be rejected. If, in the opinion of the State, such information was intended to mislead the State in its evaluation of the proposal, and the attribute, condition, or capability is a requirement of this RFP, the proposal shall be rejected.

3.9.5 Signature of Proposal

A cover letter (which shall be considered an integral part of the Final Proposal) and ~~both the three Standard Agreement Forms, -~~ the Standard Agreement Form 213 in RFP Section 11A, Contract (For the Period of Design, Development and Implementation), ~~and the Standard Form 213 in RFP Section 11B, Contract (For the Period of Maintenance and Operation), and the Standard Form 213 in RFP Section 11C, Contract (For Hardware and Software) -~~ shall be signed by an individual who is authorized to bind the bidding firm contractually. The signature must indicate the title or position that the individual holds in the firm. **An unsigned Final Proposal shall be rejected.**

The Draft Proposal must also contain the cover letter and Standard Agreement Form 213, similarly prepared, including the name and title of the person who will sign, but need not contain the signature.

3.9.6 Delivery of Proposals

Mail or deliver proposals to the Procurement Official listed in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS. If mailed, use certified or registered mail with return receipt requested, as mailing of proposals is done at Bidder's own risk of untimely delivery, lost mail, etc.

Proposals must be received in the number of copies stated in Section 9, PROPOSAL FORMAT and not later than the dates and times specified in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates. One copy must be clearly marked "Master Copy." All copies of proposals must be under sealed cover that is to be plainly marked "LETTER OF INTENT TO BID," "DRAFT PROPOSAL," or "FINAL PROPOSAL" for "RFP HHSDC 4130-141A."

Final Proposals not received by the date and time specified in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, will be rejected and returned to the Bidder unopened. All cost data (as identified in the above referenced section) must be submitted under separate, sealed cover and clearly marked "Volume 3, Cost Proposal for RFP HHSDC 4130-141A." If cost data is not submitted in this manner, the proposal may be rejected.

A proposal submitted under an improperly marked cover may be rejected. If discrepancies are found between two or more copies of a Bidder's proposal, the proposal may be rejected. However, if not so rejected, the Master Copy will provide the basis for resolving such discrepancies. If one copy of the Final Proposal is not clearly marked "Master Copy," the State may reject the proposal; however, the State may at its sole option select, immediately after proposal opening, one copy to be used as the Master Copy.

3.9.7 Withdrawal and Resubmission/Modification of Proposals

A Bidder may withdraw its Letter of Intent to Bid, or Draft Proposal at any time by written notification to the State Procurement Official. A Bidder may withdraw its Final Proposal at any time prior to the proposal submission time specified in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates by submitting a written notification of withdrawal signed by the Bidder authorized in accordance with Paragraph 3.9.5, Signature of Proposal. The Bidder may thereafter submit a new or modified proposal prior to such proposal submission date and time. Modification offered in any other manner, oral or written, will not be considered. **Final Proposals cannot be changed or withdrawn after the time designated for receipt, except as provided in Paragraph 3.11.3, Errors in the Final Proposal.**

3.10 Rejection of Proposals

The State may reject any or all proposals and may waive any immaterial deviation or defect in a proposal. The State's waiver of any immaterial deviation or defect shall in no way modify the RFP documents or excuse the Bidder from full compliance with the RFP specifications if awarded the Contracts.

3.11 Evaluation and Selection Process – (Also See Section 10, EVALUATION OF PROPOSALS)

3.11.1 General

Proposals will be evaluated and scored according to the procedures contained in Section 10, EVALUATION OF PROPOSALS. Special instructions and procedures apply to the Letter of Intent to Bid, Draft Proposals and Final Proposals.

3.11.2 Evaluation Questions

During the evaluation and selection process, the State may desire the presence of a Bidder's representative for answering specific questions, orally and/or in writing.

3.11.3 Errors in the Final Proposal

An error in the Final Proposal may cause the rejection of that proposal; however, the State may at its sole option retain the proposal and make corrections based on the following criteria.

In determining if a correction will be made, the State will consider the conformance of the proposal to the format and content required by the RFP, and any unusual complexity of the format and content required by the RFP.

1. If the Bidder's intent is clearly established based on review of the complete Final Proposal submittal, the State may at its sole option correct an error based on that established intent.
2. The State may at its sole option correct obvious clerical errors.
3. The State may at its sole option correct discrepancy and arithmetic errors on the basis that if intent is not clearly established by the complete proposal submittal, the Master Copy shall have priority over additional copies, the proposal narrative shall have priority over the Contract, the Contract shall have priority over the cost sheets, and within each of these, the lowest level of detail will prevail. If necessary, the extensions and summary will be recomputed accordingly, even if the lowest level of detail is obviously misstated. The total

price of unit-price items will be the product of the unit price and the quantity of the item. If the unit price is ambiguous, unintelligible, uncertain for any cause, or is omitted, it shall be the amount obtained by dividing the total price by the quantity of the item.

4. The State may at its sole option correct errors of omission, and in the following four situations, the State will take the indicated actions if the Bidder's intent is not clearly established by the complete proposal submittal.
 - If an item is described in the narrative and omitted from the Contracts and cost data provided in the proposal for evaluation purposes, it will be interpreted to mean that the item will be provided by the Bidder at no cost.
 - If a minor item is not mentioned at all in the Final Proposal and is essential to satisfactory performance, the proposal will be interpreted to mean that the item will be provided at no cost.
 - If a major item is not mentioned at all in the Final Proposal, the proposal will be interpreted to mean that the Bidder does not intend to supply that item.
 - If a major item is omitted, and the omission is not discovered until after Contracts Award, the Bidder shall be required to supply that item at no cost.
5. If a Bidder does not follow the instructions for computing costs not related to the Contracts (e.g., State personnel costs), the State may reject the proposal, or at its sole option, recompute such costs based on instructions contained in the RFP.

If the recomputations or interpretations, as applied in accordance with Paragraph 3.11.3, Errors in the Final Proposal, result in significant changes in the amount of money to be paid to the Bidder (if awarded the Contracts) or in a requirement of the Bidder to supply a major item at no cost, the Bidder will be given the opportunity to promptly establish the grounds legally justifying relief from its proposal.

IT IS ABSOLUTELY ESSENTIAL THAT BIDDERS CAREFULLY REVIEW THE COST ELEMENTS IN THEIR FINAL PROPOSAL, SINCE THEY WILL NOT HAVE THE OPTION TO CHANGE THEM AFTER THE TIME FOR SUBMITTAL.

6. In the event an ambiguity or discrepancy between the general requirements described in Section 4, PROPOSED SYSTEM and the specific technical requirements set forth in Section 6, TECHNICAL REQUIREMENTS (SOW/SYRS) is detected after the opening of proposals, Section 6, and the Bidder's response thereto, shall have priority over Section 4, and the Bidder's response thereto. Refer to Paragraph 2.3, RFP Documents, regarding immediate notification to the State Procurement Official when ambiguities, discrepancies, omissions, et cetera are discovered.

3.12 Special Project Report (SPR)

After the State determines an apparent selected Bidder, the State will prepare a SPR, during which time, the Bidder's pricing contained in their Final Proposal shall remain firm for a period of two hundred forty (240) days from the scheduled Final Proposal submission date identified in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates. Approval of the SPR must precede and is a condition for the award of Contracts.

3.13 Award of Contracts

Award of ~~both all~~ Contracts, if made, will be in accordance with Section 10, EVALUATION OF PROPOSALS to a responsible Bidder whose single Final Proposal complies with all the

mandatory requirements of the RFP documents and any addenda thereto, except for such immaterial defects as may be waived by the State. The Award of ~~both~~all Contracts, if made, will be made simultaneously and should be made within two hundred forty (240) days after the scheduled date for Final Proposal submission specified in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates; however, a Bidder may extend the offer beyond two hundred forty (240) days in the event of a delay of Contracts Award.

The State reserves the right to modify or cancel in whole or in part its RFP including any expression of intent to award the contracts.

Written notification of the State's Intent to Award will be made to all Bidders. If a Bidder, having submitted a Final Proposal, can show that its proposal, instead of the proposal selected by the State, should be selected for Contracts Award according to the rules of Paragraph 3.11, Evaluation and Selection Process, the Bidder will be allowed to submit a protest to the Intent to Award, according to the instructions contained in Paragraph 5.1, Protests.

3.14 Debriefing

A debriefing may be held after final Contracts Award and the resolution of any protests at the request of any Bidder for the purpose of receiving specific information concerning the evaluation. The discussion will be based primarily on the technical and cost evaluations of the Bidder's Final Proposal. A debriefing is not the forum to challenge the RFP specifications or requirements.

4 CONTRACTUAL INFORMATION

4.1 Contract Form – (Also see Section 11, CONTRACT)

The State has Contract forms to be used by State agencies when contracting for Information Technology goods and services. The Contract appropriate for the specific requirements of this RFP is included in the RFP, Section 11, CONTRACT.

4.2 Specific Terms and Conditions

The terms and conditions for the Contracts awarded as a result of this RFP are included in Section 11, CONTRACT in the solicitation document in its final form, and any alteration by a Bidder will result in rejection of its proposal. The State recognizes, however, that pricing information and other aspects of the Bidder's Final Proposal may have to be extracted and included in the Contracts after the submission of Final Proposals.

4.3 Term of Contracts

The State intends to retain the required goods and services for the ~~two~~three contracts for seven (7) years with three (3) optional one (1) year extensions. The State will accept Contracts for a longer period than specified if, at the sole option of the State, the Contracts may be terminated at the end of the period specified without the payment of termination charges.

5 OTHER INFORMATION

5.1 Protests

Before a protest is submitted regarding any issue other than selection of the "successful Bidder," the Bidder must make full and timely use of the procedures described in this Section to resolve any outstanding issue(s) between the Bidder and the State. The procurement procedure is designed to give the Bidder and the State adequate opportunity to submit questions and discuss the requirements and Draft Proposal before the Final Proposal is due. The protest procedure is made available in the event that a Bidder cannot reach a fair agreement with the State after exhausting these procedures. In such cases, a protest may be submitted according to the procedure below. Protests regarding solicitation requirements, RFP procedures and issues other than selection of the "successful Bidder" will be heard and resolved by the Deputy Director of the Department of General Services Procurement Division, whose decision will be final.

All protests must be made in writing, signed by an individual authorized under Paragraph 3.9.5, Signature of Proposal, and must contain a statement of the reason(s) for protest; citing the law, rule, regulation, or procedures on which the protest is based, and provide facts and evidence to support the claim. All protests must be made in compliance with Public Contract Code 12102(h). The protester must provide facts and evidence to support the claim. Protests must be delivered or mailed to:

Street Address:
Deputy Director
Procurement Division
707 Third Street, 2nd Floor
West Sacramento, CA 95814

Mailing Address:
Deputy Director
Procurement Division
P.O. Box 942804
Sacramento, CA 94204-0001

All protests to the RFP or protests concerning the evaluation, recommendation, or other aspects of the selection process must be received by the Deputy Director of the Procurement Division as promptly as possible, but not later than the respective times and dates specified in the Intent to Award notification and/or in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates for such protests.

5.2 News Releases

Any publications or news releases relating to this procurement or the Contracts resulting from this procurement shall not be made without prior written approval of the Procurement Official listed in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 3, Procurement Official.

5.3 Disposition of Proposals

All materials submitted in response to this RFP will become the property of the State of California and will be returned only at the State's option and at the Bidder's expense. The Master Copy shall be retained for official files and will become a public record after the date and time for Final Proposal submission as specified in Section 1, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, Paragraph 5, Key Action Dates.

EXHIBIT 2-1 COMPETITIVE BIDDING AND PROPOSAL RESPONSIVENESS

The purpose of competitive bidding is to secure public objectives in the most value-effective manner and avoid the possibilities of graft, fraud, collusion, etc. Competitive bidding is designed to benefit the public body (the State, in the present context), and is not for the benefit of the Bidders. It is administered to accomplish its purposes with sole reference to the public interest. It is based upon full and free bidding to satisfy State specifications, and acceptance by the State of the most value-effective solution to the State's requirements, as determined by the evaluation criteria contained in the RFP.

Competitive bidding is not defined in any single statute but is more in the nature of a compendium of numerous court decisions. From such court decisions, the following rules have evolved, among others:

1. Request for Proposals must provide a basis for full and fair competitive bidding among Bidders on a common standard, free of restrictions tending to stifle competition.
2. The State may modify the RFP, prior to the date fixed for contracts award, by issuance of an addendum to all parties who have been furnished with the RFP for bidding purposes.
3. To have a valid proposal, the proposal must respond and conform to the invitation, including all the documents, which are incorporated therein. A proposal which does not literally comply may be rejected.
4. For a variance between the request for proposals and the proposal to be such as to preclude acceptance (the proposal must be rejected), the variance or deviation must be a material one.
5. State agencies usually have the express or implied right to reject any and all proposals in the best interests of the State. Proposals cannot, however, be selectively rejected without cause.
6. Proposals cannot be changed after the time designated for receipt and opening thereof. No negotiation as to the scope of the work, amount to be paid, or contractual terms is permitted.
7. A competitive proposal, once opened and declared, is in the nature of an irrevocable option and a contract right of which the public agency cannot be deprived without its consent, unless the requirements for rescission are present. All proposals become public documents.
8. Proposals cannot be accepted "in part," unless the invitation specifically permits such an award.
9. Contracts entered into through the competitive bidding process cannot later be amended, unless the Request for Proposals includes a provision, to be incorporated in the contracts awarded, providing for such amendment.

Since competitive procurement became the required method for securing certain IT goods or services, the State has received a number of proposals which were deemed to be non-responsive to the Request for Proposals or which could not be considered as valid proposals within the competitive bidding procedures. Non-responsive proposals or proposals which contain qualifications must be rejected. Many of the causes for rejection arise from either an incomplete understanding of the competitive bidding process or administrative oversight on the part of the Bidders.

Exhibit 2–1 (Continued)

The following examples are illustrative of more common causes for rejection of proposals. These examples are listed to assist potential Bidders in submission of responsive proposals.

1. A proposal stated, "The prices stated within are for your information only and are subject to change."
2. A proposal stated, "This proposal shall expire one-hundred-eighty (180) days from this date unless extended in writing by the ____ Company." (In this instance award was scheduled to be approximately 180 days after the scheduled Contract Award date.)
3. A proposal for lease of IT equipment contained lease plans of a duration shorter than that which had been requested in the RFP.
4. A personal services contract stated, " _____, in its judgment, believes that the schedules set by the State are extremely optimistic and probably unobtainable. Nevertheless, _____ will exercise its best efforts..."
5. A proposal stated, "This proposal is not intended to be of a contractual nature."
6. A proposal contained the notation "prices are subject to change without notice."
7. A proposal was received for the purchase of IT equipment with unacceptable modifications to the Purchase Contract.
8. A proposal for lease of IT equipment contained lease plans of a duration longer than that which had been requested in the RFP with no provision for earlier termination of the contract.
9. A proposal for lease of IT equipment stated, "...this proposal is preliminary only and the order, when issued, shall constitute the only legally binding commitment of the parties."
10. A proposal was delivered to the wrong office.
11. A proposal was delivered after the date and time specified in the RFP.
12. An RFP required the delivery of a performance bond covering 100 percent of the proposed contract amount. The proposal offered a performance bond to cover "x" dollars which was less than the required 100 percent of the proposed contract amount.
13. A proposal did not meet contract goal for DVBE participation and did not follow the steps required by the proposal to achieve a "good faith effort."
14. A proposal appeared to meet contract goal for DVBE participation with the dollars submitted, but the bidder had miscalculated the proposal costs. When these corrections were made by the State, the bidder's price had increased and the dollars committed for DVBE participation no longer met goal. The bidder had not followed the steps to achieve a "good faith effort."